

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DAWN PENNING,	)	
PLAINTIFF,	)	CIVIL ACTION NO.:
	)	4:10-cv-1397
VS.	)	
	)	JURY TRIAL DEMANDED
LAW OFFICES OF ANDREU, PALMA &	)	
ANDREU, P.L.	)	UNLAWFUL DEBT
DEFENDANT.	)	COLLECTION PRACTICES

**COMPLAINT FOR DAMAGES**

**INTRODUCTION**

1. This is an action for damages against the Defendant for violations of the Federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. and the Florida Consumer Collection Practices Act, Fla. Stat. § 559.55.

**SUBJECT MATTER JURISDICTION**

2. Subject matter jurisdiction in this Court is proper pursuant to 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337 (federal question jurisdiction).

**PARTIES AND PERSONAL JURISDICTION**

3. Plaintiff is a resident of this state who is authorized by law to bring this action.

4. Defendant THE LAW OFFICES OF ANDREU, PALMA & ANDREU, P.L. is a limited liability company organized pursuant to law and doing business in the state of Missouri (hereinafter, said Defendant is referred to

as "APA") with its principal place of business located at 701 SW 27<sup>th</sup>, Suite 900, Miami, Florida 33135 .

5. APA is subject to the jurisdiction and venue of this Court, and to the best of Plaintiff's knowledge, information and belief, APA does not have a registered agent in the State of Missouri.

6. APA may be served by personal or substitute service pursuant to the Federal Rules of Civil Procedure and, as applicable, the laws of the State of Missouri.

#### **FACTS COMMON TO ALL CAUSES**

7. APA uses telephone communications in its business.

8. The principle purpose of APA's business is the collection of debts.

9. APA regularly collects or attempts to collect debts owed or due, or asserted to be owed or due, another.

10. APA is a debt collector subject to the provisions of the Fair Debt Collection Practices Act.

11. In the course of attempting to collect a debt allegedly due from Plaintiff to another business not a party to this litigation, APA communicated with Plaintiff in a manner which violated the Federal Fair Debt Collection Practices Act.

12. APA left voice messages for Plaintiff on her cell phone voice message system on several occasions during the period of time spanning from October 19, 2009 through May 1, 2010.

13. In some of the voice messages, APA failed to give meaningful disclosure of its identity.

14. In all of the voice messages, APA failed to state that the communication was from a debt collector.

15. In all of the voice messages, APA failed to state that the communication was an attempt to collect a debt.

16. Defendant's communications violate the Fair Debt Collection Practices Act.

17. Plaintiff has complied with all conditions precedent to bring this action.

### **CAUSES OF ACTION**

#### **FAIR DEBT COLLECTION PRACTICES ACT**

18. The acts of Defendant constitute violations of the Fair Debt Collection Practices Act.

19. Defendant's violations of the FDCPA include, but are not limited to, the following:

- a. The placement of telephone calls without meaningful disclosure of the caller's identity, in violation of 15 U.S.C. § 1692d(6);

b. The use of any false representation or deceptive means to collect or attempt to collect any debt, in violation of 15 U.S.C. § 1692e(10); and

c. The failure to make the disclosures in all communications, in violation of 15 U.S.C. § 1692e(11).

20. As a result of the Defendant's actions, the Plaintiff is entitled to an award of statutory damages, as well as an award of costs and attorney's fees.

**WHEREFORE**, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

A. Statutory damages pursuant to 15 U.S.C. § 1692k;

B. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k;

C. For such other and further relief as may be just and proper.

**FLORIDA CONSUMER COLLECTION PRACTICES ACT**

21. The acts of Defendant constitute violations of the Florida Consumer Collection Practices Act.

22. Defendant's violations of the FCCPA include, but are not limited to, the following:

a. The placement of telephone calls without meaningful disclosure of the caller's identity;

b. The use of any false representation or deceptive means to collect or attempt to collect any debt; and

c. The failure to make the disclosures in all communications.

23. As a result of the Defendant's actions, the Plaintiff is entitled to an award of statutory damages, as well as an award of costs and attorney's fees.

**PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

/s/ Dawn Penning

**Dawn Penning**

**THE SWANEY LAW FIRM**

/s/ Robert T. Healey

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